

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES**

MARCH 18, 2003

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, President
Ron Alvarado, Vice President
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board President and staff met with Assembly Speaker Herb Wesson to discuss budget, recruitment and civil rights issues.
- B. State Personnel Board staff met with Assemblymember Marco Firebaugh to discuss budget, recruitment and civil rights issues.
- C. State Personnel Board staff also met with representatives of the Department of Finance to discuss budget issues and potential modifications of the proposed budget cuts.

** The State Personnel Board Summary Minutes can be obtained at the following Internet address:
<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

Minutes - Page 2
March 18, 2003

- D. State Personnel Board staff met with representatives of the Public Employees Retirement System to discuss options for positions impacted by a recent court decision.
- E. A new State Personnel Board Web page dedicated to Bilingual Services and resources for departments and individuals has been created. The Web page can be accessed at www.spb.ca.gov.
- F. Board Member Maeley Tom will be meeting with representatives of the union on March 18, 2003.
- G. Wanda Lewis, a former President of Black Advocates in State Service and a Trustee of the Statewide Coordinating Council is retiring from state service. Mrs. Lewis has been a long-term supporter and advocate for Equal Opportunity and diversity in state service

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

- A. Connerly v. State Personnel Board, et. al - Connerly has filed a cross-appeal from the trial court's judgment on attorney fees.
- B. International Union of Operating Engineers v. State of California (State Personnel Board) - A hearing before the Public Employment Relations Board's administrative law judge is scheduled to begin March 18, 2003.

Other:

- A. State Personnel Board (SPB) Chief Counsel Elise Rose was on a panel with Robert Thompson, General Counsel of the Public Employment Relations Board (PERB) at the annual seminar of the Labor and Employment section of the County Bar on March 15, 2003. The topic was SPB and PERB updates.

4. REPORT ON LEGISLATION - Sherry Hicks

The Board was advised of the following:

- A. Although there was some discussion about canceling all policy hearings until budget issues were resolved, committees continue to meet.
- B. AB 556 (Strickland) - Would eliminate the salaries of Board members.
- C. SB 776 (Johnson) - Would review the salaries of Board and Commission members.
- D. AB 292 (Yee) - Would prohibit the use of children as interpreters.
- E. AB 268 (Mullin) - Would require supervisors to receive training on disabilities.
- F. AB 318 (Haynes) - Would require Departments, Boards and Commissions to submit fiscal reports to the Legislature. This is in addition to current fiscal information required by the Department of Finance.
- G. Sherry Hicks met with union leaders at California State Employees Association (CSEA) to discuss their legislative program.
- H. Executive Officer Walter Vaughn discussed the joint legislative hearings on the Dymally-Allatore Bilingual Services Act.

The Board voted on the following:

- A. AB 259 (Horton) - Would allow state employees who have been disciplined by their appointing powers to split their causes of action and have two separate trials; one before the State Personnel Board (SPB) and the second before an arbitrator or state or federal court to review discrimination cases that could have been, but were not released during the disciplinary appeal before the SPB.
NEUTRAL.

VOTE: Elkins, Alvarado, Tom - Aye.

BOARD ACTIONS

Minutes - Page 4
March 18, 2003

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF MARCH 4, 2003

ACTION: Adopted March 18, 2003.

VOTE: Elkins, Alvarado, Tom - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On March 18, 2003, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

COURT REMAND DECISION

SONNY SALAZAR, CASE NO. 01-1951

Appeal from dismissal

Janitor

Department of General Services

ACTION: In Compliance with the Peremptory Writ of Mandate issued by the court, the Board adopted a resolution setting aside the decision it issued on October 4, 2001, and remanding the matter to the Chief Administrative Law Judge to set for evidentiary hearing

PROPOSED DECISIONS

JUDITH C. BECK, CASE NO. 00-3025B

Appeal from denial of reinstatement, back salary, benefits, and interest

Janitor

California Highway Patrol

ACTION: Reinstatement, backpay, benefits and interest granted

CHERYL CLEMENTS, CASE NO. 02-3655

Appeal from five-percent reduction in salary for one month

Personnel Specialist

California State Library

ACTION: Five-percent reduction in salary for one month modified to an official reprimand

DEBORAH COREY, CASE NO. 02-3648

Appeal to set aside resignation

Administrative Support Coordinator I

California State University, San Marcos

ACTION: Appeal to set aside resignation denied

Minutes - Page 5
March 18, 2003

KERI GOLDEN, CASE NO. 02-3068
Appeal from a five-percent reduction in salary for three months
Workers' Compensation Payroll Auditor
State Compensation Insurance Fund
ACTION: Five-percent reduction in salary for three months sustained

ATRELL GUYE, CASE NO. 02-1160
Appeal from suspension for ten workdays
Office Assistant (Typing)
Department of Social Services
ACTION: Ten working days suspension sustained

ADRIENNE HAAPALA, CASE NO. 01-0550E
Appeal of discrimination based on age and gender, and retaliation
Registered Nurse
California Institution for Women, Frontera
Department of Corrections
ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself

RHONDA HANSEN, CASE NO. 02-0530
Appeal from rejection during probationary period
Staff Services Analyst (General)
Department of Health Services
ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself

MICHAEL McLOED, CASE NO. 02-3340
Appeal from dismissal
Caltrans Heavy Equipment Mechanic
Department of Transportation
ACTION: Dismissal sustained

DENNIS SVET, CASE NO'S 00-0458 & 00-3337E
Appeal from dismissal and complaint of retaliation/whistleblower
Investigator
Department of Motor Vehicles
ACTION: Dismissal sustained and complaint of retaliation/whistleblower dismissed

KEVIN VENEMA, CASE NO. 02-2897
Appeal from five-percent reduction in salary for six months
Correctional Officer
Valley State Prison for Women, Chowchilla

Department of Corrections

ACTION: Five-percent reduction in salary for six months
modified to informal counseling

BILLY WHITMORE, CASE NO. 02-3306

Appeal from dismissal

Dispatcher Clerk

Department of Transportation

ACTION: Dismissal sustained

ARBITRATION

SEAN HOPKINS, CASE NO. 03-0039

Appeal from three working day suspension

Officer

California Highway Patrol

ACTION: Three day suspension modified to an official
reprimand

MICHAEL McFADDEN, CASE NO. 03-0031

Appeal from three working day suspension

Officer

California Highway Patrol

ACTION: Three day suspension modified to one day suspension

JAMES LEMONS, CASE NO. 03-0032

Appeal from three working day suspension

Officer

California Highway Patrol

ACTION: Three day suspension modified to an official
reprimand

PETITIONS FOR REHEARING

KONSTANTINOS DINOYANNIS, CASE NO. 01-2735P, 01-3415EP

Appeal from 12 month reduction in salary

from Step Three of Salary Range B to Step One of Salary
Range A and whistleblower/retaliation complaint

Research Analyst I

Department of Industrial Relations

ACTION: Petition for rehearing filed by appellant denied

BERLINDA GREEN, CASE NO. 02-1896

Appeal from dismissal

Motor Vehicle Field Representative

Department of Motor Vehicle

ACTION: Petition for rehearing filed by appellant denied

CLETUS CURAH, CASE NO. 02-1901
Appeal from 85 work days suspension
Transportation Engineer (Civil)
Department of Transportation
ACTION: Petition for rehearing filed by appellant denied

STIPULATION

DONALD BACKLUND, CASE NO. 02-3854
Appeal from dismissal
Associate Information Systems Analyst
Department of Transportation
ACTION: Stipulation for settlement approved

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION

ACTION: See pages 15-18

8. WITHHOLD APPEALS

On March 18, 2003, the Board adopted the following decisions
presented by Laura Aguilera, Assistant Executive Officer,
California State Personnel Board
VOTE: Elkins, Alvarado, Tom - Aye.

LYDIA AGUILAR, CASE NO. 02-2203
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

CARLOS BALANON, CASE NO. 02-2235
Classification: Youth Correctional Officer
California Youth Authority
ACTION: DENIED

JOSHUA BEMETZ, CASE NO. 02-2228
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

CHRISTOPHER COHEN, CASE NO. 02-2249
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

LISANDRO CRUZ, CASE NO. 02-2200

Minutes - Page 8
March 18, 2003

Classification: Youth Correctional Officer
California Youth Authority
ACTION: DENIED

STEVE CURLEY, CASE NO. 02-1872
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

ALEJANDRO DALISAY, CASE NO. 02-2063
Classification: Medical Technical Assistant, CF
Department of Corrections
ACTION: DENIED

RICHARD DAVIDSON, CASE NO. 02-2248
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

LAURA DAVIS, CASE NO. 02-2224
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

FRANKLIN EDMOND SR., CASE NO. 02-2065
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

JESUS ESQUIVEL, CASE NO. 02-1724
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

MICHAEL KAISER, CASE NO. 02-2184
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

TERESA KANTER, CASE NO. 02-2260
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

DAVID PADILLA, CASE NO. 02-2204
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

RAHJE PARKER, CASE NO. 02-1170
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

JATINDERPALS RANDHAWA, CASE NO. 02-2139
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

TED ROMERO, CASE NO. 02-2186
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

RICHARD TAIT, CASE NO. 02-2143
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

BILLY THOMAS, CASE NO. 02-2140
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

REYNALDO TREVINO, CASE NO. 02-2151
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

VINCENT VALADEZ, CASE NO. 02-2187
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

9. MEDICAL APPEALS

On March 18, 2003, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board
VOTE: Elkins, Alvarado, Tom - Aye.

AVRIL ADAMS, CASE NO. 02-3274
Classification: Food & Drug Investigator
Department of Health Services
ACTION: GRANTED

MARCY CARNEY, CASE NO. 02-4277

Classification: Youth Correctional Officer
California Youth Authority
ACTION: DISMISSED

MICHAEL CARR JR., CASE NO. 02-3543
Classification: Fire Fighter I
Forestry and Fire Protection
ACTION: DISMISSED

IVONA FELIX, CASE NO. 03-0074
Classification: Psychiatric Technician Trainee
Department of Mental Health
ACTION: DISMISSED

RUSTY MCCLENAHEN, CASE NO. 03-0076
Classification: Youth Correctional Officer
California Youth Authority
ACTION: DISMISSED

RICH OLSON, CASE NO. 02-4177
Classification: Unknown
California Highway Patrol
ACTION: DISMISSED

10. EXAMINATION APPEALS

On March 18, 2003, the Board adopted the following decisions
presented by Laura Aguilera, Assistant Executive Officer,
California State Personnel Board
VOTE: Elkins, Alvarado, Tom - Aye.

MEAGAN BEALE, CASE NO. 01-1685
Classification: Deputy Attorney
General IV
Department of Justice
ACTION: DENIED

ANTHONY HARDIN, CASE NO. 02-4466
Classification: Correctional Officer
Department of Corrections
ACTION: DISMISSED

11. PETITIONS FOR REHEARING CASES

On March 18, 2003, the Board adopted the following decisions
presented by Laura Aguilera, Assistant Executive Officer,
California State Personnel Board
VOTE: Elkins, Alvarado, Tom - Aye.

BENJAMIN BORUNDA, CASE NO. 02-0131P
Classification: Youth Correctional Counselor
California Youth Authority
ACTION: DENIED

DANIEL GROFF, CASE NO. 02-1079P
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

- (1) ASSISTANT EXECUTIVE OFFICER, BOARD OF PHARMACY
The Department of Consumer Affairs requests to allocate the above position to the CEA category. The Assistant Executive Officer, Board of Pharmacy is responsible for developing and implementing new policies on behalf of the Board.
- (2) ASSISTANT EXECUTIVE OFFICER, BOARD OF REGISTERED NURSES
The Department of Consumer Affairs requests to allocate the above position to the CEA category. The Assistant Executive Officer, Board of Registered Nurses is responsible for developing, recommending and implementing complex and sensitive Board policies to further the Board's mandates, mission, and goals.
- (3) BUREAU CHIEF, CRIMINAL INTELLIGENCE BUREAU
The Department of Justice requests to allocate the above position to the CEA category. The Bureau Chief, Criminal Intelligence Bureau will be responsible for setting policies, directing operational activities, and implementing an extensive data management system utilized by law enforcement throughout the State of California and at the federal level.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

Minutes - Page 12
March 18, 2003

(1) CHIEF OF LEGISLATION

The Department of Community Services has withdrawn their request to allocate the above position to the CEA category.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. MERIT RULE - Proposed adoption of the new Section 250 to the California Code of Regulations (CCR) entitled Requirement that Selection be Based on Merit and Fitness. (Hearing held July 23, 2002).

NO ACTION

2. TEACHER STATE HOSPITAL (SEVERLY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

3. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

4. VICTORIA MCCOY, CASE NO. 01-3372. Appeal from dismissal. Department of Corrections. (Oral argument held December 4, 2002).

NO ACTION

5. ANSWERS OR APPEALS FILED WITH STATE PERSONNEL BOARD
State Personnel Board (SPB) staff is proposing to adopt new Rule 63 to require, in part, that answers or appeals filed with SPB, requesting that a hearing or investigation be conducted by SPB, notify the responding party of all planned affirmative defenses and requests for relief. (Hearing held February 3, 2003).

NO ACTION

6. TONY PORCELLA, CASE NO. 01-2898. Appeal from dismissal. California Highway Patrol. (Oral argument held February 3, 2003).

NO ACTION

7. BARBARA LENOUE, CASE NO. 01-3441. Appeal from dismissal. Department of Developmental Services. (Oral argument held March 4, 2003).

NO ACTION

8. STEPHEN VAN ZEE, CASE NO. 01-3017. Appeal from withdrawal of employment offer. Office of Inspector General. (Oral argument held March 4, 2003).

NO ACTION

9. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

March 18, 2003

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

March 18, 2003

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on March 18, 2003.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Elkins, Alvarado, Tom, - Aye.

CORRECTION

Please Note:

Precedential Decisions adopted by the State Personnel Board are no longer available from Continuing Education of the Bar (CEB) in Berkeley. Precedential Decisions are now available at the State Personnel Board's following Internet address: www.spb.ca.gov under "Decisions."